THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.5037 OF 2006

Dated: 16-03-2006

Between

Smt. Natho Bai

W/o. Ramkishan Agarwal,

Occ: Business,

R/o. H.No.8-4-392,

Erragadda,

Hyderabad.

...PETITIONER

AND

Municipal Corporation of Hyderabad,

Rep. by its Commissioner, having

Head Office at Tank Bund,

Basheerbagh, Hyderabad.

...RESPONDENT

ORDER:

Petitioner seeks a Writ of Mandamus to declare the letter vide reference No.75/ACP/C5/MCH/5/L5/21 dated 25.06.2005 issued by the respondent and the respondent has no right to take possession of the land without following due process of law and the threat of demolition on 08.03.2006 in respect of the property bearing Municipal

Nos.8-4-393, 8-4-397, 8-4-398 admeasuring 140 sq. yards equivalent to 117.04 sq. meters situated at Erragadda, Hyderabad as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the absolute owner and possessor of the property bearing Municipal Nos.8-4393, 8-4-397 and 8-4-398 admeasuring 140 sq. yards situated at Erragadda, Hyderabad abutting the main road leading from S.R. Nagar Junction to Erragadda. He further submits that the said existing road is sought to be widened to 150 feet to ensure free flow of traffic and in the said widening the property of the petitioner is getting affected to a depth of 40 feet admeasuring 133.33 sq. yards. He further submits that if the said road is widened only an extent of 6.66 sq. yards will be remained making it useless for any further construction and also to avail concessions as prescribed by the Government in G.O.Ms.No.483 M.A. dated 24.08.1998 for re-development of the balance area. He further submits that the balance area of 6.66 sq. yards becomes useless if the said area is acquired, therefore, the petitioner is not willing to give consent for road widening under Section 146 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act').

If that be so, I am of the opinion that without initiating the land acquisition proceedings under Section 147 of the Act for payment of just and reasonable compensation, the respondent cannot dispossess the petitioner from the premises in question.

Accordingly, the respondent is directed to initiate the land acquisition proceedings under Section 147 of the Act and take appropriate action in accordance with law if the said property is required for the purpose of road widening.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

March 16, 2006

DSK